

10/752,898**BBUCP101USA****Remarks**

Claims 1, 2, 5-13, 15-23 and 25-27 are currently pending in the subject application and are presently under consideration. A new listing of the claims is at pages 2-5 of the Reply. Claims 1, 10-13, 15-19, 21, 23, and 27 have been amended to more clearly recite the invention. Claim 20 has been canceled.

Favorable reconsideration of the subject patent application is respectfully requested in view of the comments and amendments herein.

I. Objections to Claims 1 and 21

Claims 1 and 21 are objected to because of informalities. The informality in Claim 21 has been changed in accordance with the Examiner's request. Claim 1 has been amended obviating the objection to the use of "and." Accordingly, applicant's representative requests that the Examiner withdraw these objections.

II. Rejection of Claims 1-2, 5-13, 15-23 and 25-27 under 35 U.S.C. §112, second paragraph

Claims 1-2, 5-13, 15-23 and 25-27 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which the applicant regards as the invention.

It is respectfully submitted that this rejection should be withdrawn for at least the following reason.

With respect to the rejection based on the terminology "for oral interaction", the Examiner lists five interactive aspects. Applicant's representative submits that terminology includes all of these. "Oral" having the common and well-known meaning of "by mouth" includes licking, chewing, and consuming. These aspects are described throughout the specification at page 2, lines 17-18, SUMMARY "the toy can be totally edible or include a shell that is edible...the pet compresses and/or disintegrates the toy in its mouth." Other references can be found at page 4, line 8-9, "...outer shell 102 that will...be chewed away...as the cat attempts to chew or kick the toy" and page 7, line 24, where "...the jaw of the pet compresses the toy..." Moreover, "for oral interaction", the shape of the toy and/or shell is such that the shape facilitates the biting, chewing, compressing, and licking, etc., as

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well as stimulating the pet using a shape that stimulates the pet based on the prolonged motion of the toy when set in motion.

Claim 21, has been amended to more clearly recite the invention. The term "substantially" has been deleted.

Claim 1, as amended, more clearly recites the invention and hence, addresses the interpretations put forth in the Examiner's Note on page 3 of the Office Action. The "at least one of...or..." has been changed to read that the "the shape of the shell" and "the edible material" contribute to the stimulation of the cat.

Claim 18 has been amended to more clearly recite the invention. To wit, claim 18 recites in part "a single contiguous composition of the inner and outer edible material."

Accordingly, it is requested that this rejection be withdrawn for claims 1, 10, 18, 19 and 21, and the claims that depend therefrom.

III. Rejection of Claims 1, 2, 5, 8, 10-13, 15 and 17 under 35 U.S.C. §102(b)

Claims 1, 2, 5, 8, 10-13, 15 and 17 stand rejected under 35 U.S.C. §102(b) as being anticipated by Brekau (DE-29703253). Although not indicated in the Office Action, it is assumed that the Examiner intended to include claim 18 in this rejection. Please indicate otherwise, if this is not the case.

It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Brekau neither teaches nor suggests each and every element of the subject claimed invention.

A single prior art reference anticipates a patent claim only if it expressly or inherently describes each and every limitation set forth in the patent claim. *Trintec Industries, Inc. v. Top-U.S.A. Corp.*, 295 F.3d 1292, 63 USPQ2d 1597 (Fed. Cir. 2002); See *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the ... claim. *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989) (emphasis added).

Brekau teaches a cat plaything in the form of a ball containing food comprising two joined half-shells, which themselves are edible or inedible, and with suitable provisions for a

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claw grip to provide the cat with object suiting its natural hunting and play instincts. A felt or woolen surface may be used, capable of being held by the claws, and putting up some resistance, and on opening, the cat gets its reward. The edible material with holes for grip may form the shell halves.

As amended, independent claim 1 recites "wherein a shape of the shell facilitates stimulation of a cat to interact therewith by prolonged motion of the toy when the toy is set in motion and the edible material facilitates stimulation of a cat to interact therewith, the edible material including catnip." Brekau does not teach such a combination of limitations. Accordingly, it is respectfully requested that this rejection be withdrawn, and that claims 2 and 5-9 that depend therefrom also be allowed.

Independent claim 10, as amended, recites, in part, "an outside shell for oral interaction with the cat, the shell made of an outer edible material and catnip for stimulation of the cat to interact therewith" and "an inner edible material surrounded by the shell, the inner edible material accessible by the cat based on wear of the shell over an extended period of time, the inner edible material made of different edible components and catnip, wherein the entire toy is of edible material and thereby consumable in its entirety."

Brekau does not teach such limitations. Accordingly, it is respectfully submitted that claim 10 and claims 11-13 and 15-18 that depend therefrom be allowed.

IV. Rejection of Claims 1, 2, 5-7, 10, 13, 16 and 19-20 under 35 U.S.C. §102(b)

Claims 1, 2, 5-7, 10, 13, 16 and 19-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by Denesuk et al. (US Patent No. 6,178,922).

It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Denesuk et al. neither teaches nor suggests each and every element of the subject claimed invention.

Denesuk teaches a mastication article for a domestic animal comprising tough chew-resistant material defining a shape in the form of a small article for enticing or being retrieved by a domestic animal, and an effective amount of microbe-inhibiting agent applied to or incorporated in the material. The mastication articles may be fabricated in various shapes, designs, and styles. A process for applying the microbe-inhibiting agent to the material for forming the mastication article is disclosed. Application methods include

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spraying and soaking the article, and incorporating the agent within a resin or material for forming the article. The article can be digestible in whole or in part.

Amended independent claim 1 recites in part "an edible material physically differentiated from and surrounded by the shell..." Denesuk does not teach a shell that is physically differentiated or the edible material surrounded by the shell. The Examiner submits that application of a liquid "deposited on the surface" suffices for a shell. However, Denesuk continues to teach with respect to this subject that "[b]y choosing properly the liquid, material, environmental conditions (e.g., temperature, pressure) and optionally any additives, the agent can be made to penetrate the material." Moreover, the "shell" as proposed by the Examiner, does not "...surround the edible material..." as in the recited limitation. Additionally, Denesuk does not teach or suggest "...a shape of the shell facilitates stimulation of a cat to interact therewith by prolonged motion of the toy when the toy is set in motion..."

With respect to amended claim 10, Denesuk does not teach or suggest "an outside shell for oral interaction with the cat, the shell made of an outer edible material and catnip for stimulation of the cat to interact therewith" or "...the entire toy is of edible material and thereby consumable in its entirety." A similar limitation is included in amended claim 19.

Accordingly, it is respectfully submitted that independent claims 1, 10, 19, and the claims that depend therefrom be allowed.

V. Rejection of Claims 21-23 and 25-27 under 35 U.S.C. §102(b)

Claims 21-23 and 25-27 stand rejected under 35 U.S.C. §102(b) as being anticipated by Smith (US Patent No. 1,022,113).

It is respectfully submitted that this rejection should be withdrawn for at least the following reason. Smith neither teaches nor suggests each and every element of the subject claimed invention.

Smith teaches a catnip ball which can be played with by a cat without making an appreciable noise and without any danger of injuring furniture, and which is made so that the catnip contained therein cannot be distributed over the floor. The ball is made partially or entirely of a catnip compound. The compound can be composed of various ingredients besides catnip, preferably using some neutral or inert material or materials that give body to

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the ball and act as a binder to retain the catnip in mass, but not destroy or deteriorate the odor. Smith teaches a preferred catnip compound that includes wood pulp or paper pulp, and that it may be desirous to add glue, cement or other cementitious substance to the compound.

As amended, claim 21 recites in part "... mixing the edible material into a homogeneous mixture of an inducement and at least one of a nutrient or a treatment..." Additionally, claim 21 recites "...forming an outer shell for housing the edible material and enclosing the edible material within the outer shell."

Smith neither teaches nor suggests the recited limitations. Moreover, Smith teaches away from the toy being entirely of an edible material by the use of products in the catnip compound that are not considered edible products such as, for example, wood pulp, paper pulp, glue, cement, or the like.

Claim 23, as amended, recites "...compressing the shell and the edible material to a compression parameter that allows the cat to access the edible material via at least one of licking, biting, or clawing." Smith neither teaches nor suggests the recited limitations.

Accordingly, it is respectfully submitted that this rejection for claim 21 should be withdrawn and, that claims 22, 23, and 25-27 that depend therefrom be allowed.

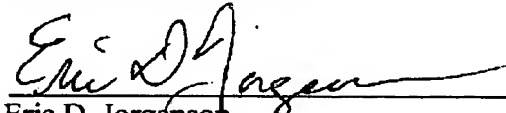
10/752,898BBUCP101USACONCLUSION

The present application is believed to be in condition for allowance in view of the above comments and amendments. A prompt action to such end is earnestly solicited.

Should the Examiner believe a telephone interview would be helpful to expedite favorable prosecution, the Examiner is invited to contact Applicant's undersigned representative at the telephone number below.

In the event any additional fees may be due, the Commissioner is authorized to charge such fees to Deposit Account No. 50-3663 [BBUCP101USA]

Respectfully submitted,


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